



Department of Justice

United States Attorney Robert E. O'Neill
Middle District of Florida

Tampa
FOR IMMEDIATE RELEASE
August 29, 2011
<http://www.usdoj.gov/usao/flm/pr>

Orlando
Jacksonville
Ocala
Fort Myers
CONTACT: WILLIAM DANIELS
PHONE: (813) 274-6388
FAX: (813) 274-6300

**CONVICTED FELON AGREES TO PLEAD GUILTY
TO MAIL FRAUD AND MONEY LAUNDERING CHARGES
FOR HIS ROLE IN MORE THAN \$21 MILLION PONZI SCHEME**

Tampa, Florida - United States Attorney Robert E. O'Neill announces that James Davis Risher, a/k/a Jay Risher (61, Sanibel, Florida) has signed a plea agreement, agreeing to plead guilty to mail fraud and money laundering charges in connection with an extensive Ponzi scheme. Risher faces a maximum penalty of 50 years in federal prison.

According to the plea agreement, Risher, who resided in Lee County, Florida, Sarasota County, Florida, and Mars Hill, North Carolina, fraudulently represented himself as a well-trained, experienced, and successful principal money manager and investor. Risher, however, omitted from his personal biography any mention of his prior convictions for state and federal felony fraud offenses, including convictions for mail fraud, securities fraud, and money laundering in United States v. James Davis Risher, Case # 96-103-CR-FTM-25, in the Middle District of Florida, Fort Myers Division. He did so in order to entice victim-investors to place their investment funds with him in a purported private equity fund, referred to as the Preservation of Principal Fund.

According to court documents, Risher enlisted the assistance of an insurance agent, who had a pre-existing business and client base in Lakeland, Florida, to promote the

purported private equity fund and to solicit the agent's clients to invest in the fund. The insurance agent assembled written promotional materials to promote the fund, including materials on Risher's fabricated biography, as well as false data concerning Risher's prior success in handling investors' funds and extraordinarily high rates of return - some of which were reported to have been earned while Risher was in federal prison. The promotional materials also represented that victim-investors' funds would be held at Penson Financial Services, Inc. ("Penson"), of Dallas, Texas, in an account titled "The Preservation of Principal Fund."

At least 106 victim-investors transmitted more than \$21 million for investment in the purported fund. Risher mailed documentation to victim-investors acknowledging receipt of their investment funds and representing that such investment funds had been accepted by and would be traded through Penson. In fact, there was never an account titled "The Preservation of Principal Fund" at Penson. Rather, Risher created, used, and controlled several accounts with Penson, which were titled in his name, his and his spouse's names, or the names of other shell entities controlled by him. Risher used these Penson accounts to transfer millions of dollars of investment funds to his personal bank account or other accounts which he controlled. He lost approximately \$760,000 of these funds via trading activity.

To perpetuate the fraud scheme, Risher made fraudulent reports of the purported fund's quarterly performance to the insurance agent. He never reported a loss. The insurance agent used Risher's reports to generate quarterly account statements which were transmitted to victim-investors via the U.S. mail. In addition, Risher used approximately \$3.8 million of the funds invested by later victim-investors to make distribution payments to earlier victim-investors in order to make it appear that the fund was

performing as represented.

Risher used approximately \$4.1 million of victim-investors' funds to compensate the insurance agent for his role in promoting the purported private equity fund.

Risher diverted approximately \$12.4 million of the victim-investors' funds for his own personal enrichment by transferring the funds to accounts in his name and accounts in the names of entities he controlled. He used the funds for jewelry, art, travel, motor vehicles, real property, and other goods and services.

This case was investigated by the Internal Revenue Service-Criminal Investigation, U.S. Postal Inspection Service, Federal Bureau of Investigation, Florida Department of Law Enforcement, and the State of Florida Office of Financial Regulation. The investigation was assisted by the U.S. Securities and Exchange Commission, Miami Regional Office. It is being prosecuted by Assistant United States Attorney Rachelle DesVaux Bedke.